

AMENDED IN SENATE JULY 15, 2010

AMENDED IN SENATE JUNE 2, 2010

AMENDED IN SENATE JANUARY 20, 2010

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 23, 2009

AMENDED IN ASSEMBLY APRIL 16, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1004

Introduced by Assembly Member Portantino

February 27, 2009

An act to amend Sections 48000, 48010, 48012, and 48013 of the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 1004, as amended, Portantino. Solid waste: State Solid Waste Postclosure and Corrective Action Trust Fund.

(1) The California Integrated Waste Management Act of 1989 requires a solid waste disposal fee, on and after January 1, 2012, to be increased by \$0.12 per ton for each operator of a solid waste landfill that notifies the Department of Resources Recycling and Recovery that it elects to participate in the State Solid Waste Postclosure and Corrective Action Trust Fund. However, the fee will not be operative on or after January 1, 2012, unless the department receives, on or before July 1, 2011, letters of participation in the fund from landfill operators representing at least 50% of the total volume of waste disposed of in 2010. The act requires the department to notify the State Board of

Equalization on or before August 31, 2011, if the increased fee will become operative.

This bill would extend all of those dates by ~~one year~~, and the fee would be operative only if the department determines there is sufficient landfill owner participation to warrant creation of the fund, rather than ~~based on total volume of waste disposed by participating landfill operators~~ *6 months, except the total volume of waste would still be measured by the 2010 standard, with the exception that letters of participation would be based on submission of those letters by landfill owners rather than landfill operators*. The bill also would impose the participation notification requirements on the owner of a landfill rather than the operator.

(2) The act requires an operator of a landfill that meets specified requirements, including electing to participate in the fund, to submit written notice to the department on or before July 1, 2011. The act requires an operator that is operating a landfill on July 1, 2011, ~~who~~ *and* submits that notice after the increased fee goes into effect to pay all trust fund fees applicable from January 1, 2012, and a 5% penalty before being allowed to participate. For a new landfill that receives a solid waste facility permit after July 1, 2011, the act requires the operator's election to participate in the fund to be submitted in writing to the department before the department concurs in the issuance of the permit. The act also requires an operator of multiple landfills who is required to maintain evidence of financial ability and whose landfills are operating on July 1, 2011, to include all other landfills in which that operator has in common ownership in the letter of participation.

This bill would extend all of those dates by ~~one year~~ *6 months*, and would apply those requirements to owners rather than operators. Additionally, a landfill with multiple owners would be authorized to participate only if all owners of that landfill elect to participate, and participation of a landfill with multiple owners would not obligate a partial owner of that landfill to include any other landfills at which the owner has full or partial ownership.

(3) The act requires the department after January 1, 2015, to report annually on expenditures from the fund, the status of cost recovery actions, and any recommended statutory changes that are necessary to ensure adequate resources are available to carry out the purposes of the fund.

This bill would require the department to begin that annual reporting after January 1, 2016, rather than January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 48000 of the Public Resources Code is
2 amended to read:
3 48000. (a) Each operator of a disposal facility shall pay a fee
4 quarterly to the State Board of Equalization, which is based on the
5 amount, by weight or volumetric equivalent, as determined by the
6 Department of Resources Recycling and Recovery, of all solid
7 waste disposed of at each disposal site.
8 (b) (1) The fee for solid waste disposed of shall be one dollar
9 and thirty-four cents (\$1.34) per ton. Commencing with the
10 1995–96 fiscal year, the amount of the fee shall be established by
11 the Department of Resources Recycling and Recovery at an amount
12 that is sufficient to generate revenues equivalent to the approved
13 budget for that fiscal year, including a prudent reserve, but shall
14 not exceed one dollar and forty cents (\$1.40) per ton.
15 (2) On and after ~~January 1, 2013~~ *July 1, 2012*, the amount of
16 the fee established by the Department of Resources Recycling and
17 Recovery pursuant to paragraph (1) shall be increased by twelve
18 cents (\$0.12) per ton for each operator of a solid waste landfill
19 whose owner has notified the department that it elects to participate
20 in the State Solid Waste Postclosure and Corrective Action Trust
21 Fund pursuant to Article 2.1 (commencing with Section 48010).
22 (c) The Department of Resources Recycling and Recovery shall
23 notify the state board on the first day of the period in which the
24 rate shall take effect of any rate change adopted pursuant to
25 paragraphs (1) and (2) of subdivision (b).
26 (d) The Department of Resources Recycling and Recovery and
27 the state board shall ensure that all of the fees for solid waste
28 imposed pursuant to this section that are collected at a transfer
29 station are paid to the state board in accordance with this article.
30 (e) (1) The fee imposed by paragraph (2) of subdivision (b)
31 shall not be operative on or after ~~January 1, 2013~~ *July 1, 2012*,
32 unless the Department of Resources Recycling and Recovery
33 receives, on or before ~~July~~ *January* 1, 2012, letters of participation
34 in the State Solid Waste Postclosure and Corrective Action Trust
35 Fund from landfill owners, and the department determines there

1 ~~is sufficient landfill owner participation to warrant creation of the~~
2 ~~fund. owners representing at least 50 percent of the total volume~~
3 ~~of waste disposed of in 2010.~~

4 (2) The Department of Resources Recycling and Recovery shall
5 notify the state board, on or before ~~August 31~~ February 29, 2012,
6 if the fee imposed by paragraph (2) of subdivision (b) shall become
7 operative pursuant to paragraph (1).

8 SEC. 2. Section 48010 of the Public Resources Code is
9 amended to read:

10 48010. (a) (1) An owner of a landfill for which evidence of
11 financial ability is maintained pursuant to Article 4 (commencing
12 with Section 43600) of Chapter 2 of Part 4, whose landfill is
13 operating on ~~July~~ January 1, 2012, and that elects to participate
14 in the State Solid Waste Postclosure and Corrective Action Trust
15 Fund pursuant to this article, shall submit written notice to the
16 Department of Resources Recycling and Recovery on or before
17 ~~July~~ January 1, 2012.

18 (2) Except as provided in paragraph (3), an owner of multiple
19 landfills that elects to participate in the State Solid Waste
20 Postclosure and Corrective Action Trust Fund is required to submit
21 written notice that includes all of the owner's operating landfills
22 and all other landfills in which that owner has in common
23 ownership.

24 (3) A landfill with multiple owners may participate only if all
25 owners of that landfill elect to participate. Participation of a landfill
26 with multiple owners shall not obligate a partial owner of that
27 landfill to include any other landfill at which that owner has full
28 or partial ownership.

29 (4) The Department of Resources Recycling and Recovery shall
30 provide to the state board the name and address, and any other
31 information necessary to administer and collect the fee imposed
32 pursuant to paragraph (2) of subdivision (b) of Section 48000, of
33 every owner of a landfill electing to participate in the State Solid
34 Waste Postclosure and Corrective Action Trust Fund on or before
35 ~~August 31~~ February 29, 2012.

36 (b) If an operator that is operating a landfill on ~~July~~ January 1,
37 2012, submits a written notification to the Department of Resources
38 Recycling and Recovery that it elects to participate after the trust
39 fund fee goes into effect, the operator shall pay all trust fund fees

1 applicable from ~~January 1, 2013~~ *July 1, 2012*, and a 5-percent
2 penalty before being allowed to participate.

3 (c) For new landfills that receive a solid waste facility permit
4 after ~~July~~ *January* 1, 2012, the owner's election to participate in
5 the State Solid Waste Postclosure and Corrective Action Trust
6 Fund shall be submitted in writing to the Department of Resources
7 Recycling and Recovery before the department concurs in the
8 issuance of the permit pursuant to Section 44009.

9 (d) All elections to participate made by landfill owners pursuant
10 to this section are final, binding, and irrevocable for those owners
11 and their successors and assignees.

12 SEC. 3. Section 48012 of the Public Resources Code is
13 amended to read:

14 48012. After January 1, 2016, as part of the annual report
15 required pursuant to Section 40507, the Department of Resources
16 Recycling and Recovery shall report on expenditures from the
17 State Solid Waste Postclosure and Corrective Action Trust Fund,
18 the status of cost recovery actions, and any recommended statutory
19 changes that are necessary to ensure adequate resources are
20 available to carry out the purposes of the State Solid Waste
21 Postclosure and Corrective Action Trust Fund.

22 SEC. 4. Section 48013 of the Public Resources Code is
23 amended to read:

24 48013. Except as provided in paragraph (3) of subdivision (a)
25 of Section 48010, an owner of multiple landfills for which evidence
26 of financial ability is maintained pursuant to Article 4 (commencing
27 with Section 43600) of Chapter 2 of Part 4 and whose landfills are
28 operating on ~~July~~ *January* 1, 2012, shall include all other landfills
29 in which that owner has in common ownership in the letter of
30 participation.